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FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.202(b)	)	MM Docket No. 94-63
Table of Allotments,	)	RM Nos. 8450 and 8526
FM Broadcast Stations	)	
	)	
(Rocky Mount, Bassett and	)	
Stanleytown VA)	)	

To: The Chief, Policy and Rules Division

OPPOSITION TO MOTION TO STRIKE

WNLB Radio, Inc. ("WNLB"), by its attorney, hereby respectfully opposes a "Motion to Strike" filed by Edward A. Baker ("Baker") on October 21, 1994. Baker contends that WNLB's reply comments in this proceeding should have been filed by September 3, 1994, in lieu of October 11, 1994. As demonstrated herein, the contention is devoid of legal support or significance.

Baker's argument conveniently ignores two unusual features of this case: (a) the counterproposal (for Stanleytown) was advanced by the petitioner itself and (b) the engineering parameters of the counterproposal are absolutely identical to those of the initial proposal (for Bassett). Given those circumstances, there was no need for the petitioner to have filed reply comments on the September 3, 1994 date specified in the Commission's Notice of Proposed Rule Making, since it knew that upon acceptance of its counterproposal the Commission would routinely provide a new date 15 days later (as indeed it did) to address the outstanding issues, which applied equally to the proposal and the counterproposal.

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Indeed, Baker appeared to have recognized this factor in its September 6 Reply Comments in which it stated, at 3-4: "The most important consideration in this proceeding is the inability of petitioner to secure a fully spaced site for its original Bassett or its substitute Stanleytown proposal (emphasis added)."

WNLB's reply comments addressed questions in common to both the Bassett proposal and the Stanleytown counterproposal. Indeed, WNLB's reply comments made no reference whatever to issues germane only to the original Bassett proposal (such as attempting to amplify information concerning Bassett's status as a licensable community). Accordingly, all of the matters raised in WNLB's reply comments, which pertained to the counterproposal, were entirely proper.

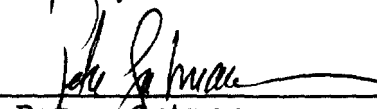
Notably, Baker fails to demonstrate any prejudice, as indeed it cannot do. Section 1.415 of the Commission's rules clearly anticipates a two-step pleading cycle: comments and replies. That scheme has been followed here. Both WNLB and Baker have had an opportunity to file comments and replies with respect to each proposal. If anything, Baker has taken unfair advantage of the rules by filing two sets of reply comments rather than the one to which each party should be entitled. In any event, WNLB's timely reply comments properly addressed matters germane to the counterproposal and/or Baker's initial comments, and therefore Baker's charge of improper procedure is without foundation.

In view of the foregoing, WNLB Radio, Inc. respectfully submits  
that Baker's Motion to Strike be denied.

Respectfully submitted,

**WNLB RADIO, INC.**

By: \_\_\_\_\_

  
Peter Gutmann  
Its Attorney

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October 24, 1994

**CERTIFICATE OF SERVICE**

I, Veronica A. Pierce, a secretary with the law firm of Pepper & Corazzini, do hereby certify that a true and correct copy of the foregoing "Opposition to Motion to Strike" was served by U.S. mail, first-class, postage prepaid on the 24th day of October, 1994, on the following individuals:

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